## REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as deemed necessary to place the application in condition for allowance.

Specifically, claims 2-4, 17, 18, 20, 21, 24, 25 and 27-30 have been amended, claims 1, 5-16, 19, 22, 23, 26 and 31-35 have been cancelled and new claims 36-39 have been added to the application. Accordingly, claims 2-4, 17, 18, 20, 21, 24, 25, 27-30 and 36-39 are pending in the application. No new matter has been added.

In the prior Office Action, the Examiner acknowledged applicant's election with traverse of Group II (claim 23 and each of claims 1-21, in part, drawn to an antibody termed 9C9 that can be produced by hybridoma cells deposited as DSM ACC2714). The Examiner made the prior restriction requirement final, but noted that claims 28-30 (Group IV) read on the elected Group II invention and therefore vacated the restriction between Groups II and IV. Applicant notes that product claims have been elected. Applicant has also amended the withdrawn process claims (i.e., claims 24, 25 and 27) to preserve applicant's right of rejoinder.

The Examiner noted that the Information Disclosure Statement (IDS) filed on October 4, 2006 failed to comply with the provisions of 37 C.F.R. 1.97, 1.98 and MPEP §609 because the IDS was completely blank. Applicant has submitted a supplemental IDS and hereby requests consideration of the references identified therein.

The Examiner objected to claims 1-21 and 23 on grounds that such claims did not recite "An antibody" in the independent claims or "The antibody" in dependent claims. This informality has been addressed in the claim amendments made herein.

The Examiner rejected claims 1-13, 17 and 19 under 35 U.S.C. §101 on grounds that the claims were directed to non-statutory subject matter, namely antibodies that would occur in nature. Applicant notes that claims 1, 5-13 and 19 have been canceled, thereby rendering the prior rejection thereof moot. Furthermore, applicant notes that claims 2-4 and 17 now depend from claim 36, which claims a monoclonal antibody produced from the hybridoma cell line deposited as DSM ACC2714 (mAB 9C9), which

would not occur in nature. In view of the amendments made to claims 2-4 and 17, reconsideration is respectfully requested.

The Examiner rejected claim 23 under 35 U.S.C §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner noted that the phrase "such as" rendered the claim indefinite. By this amendment, claim 23 has been canceled, thereby rendering the prior rejection thereof moot. Applicant notes that new claim 36, which claims a monoclonal antibody produced from the hybridoma cell line deposited as DSM ACC2714 (mAB 9C9), does not include the "such as" language of former claim 23.

The Examiner rejected claims 1-21 and 28-30 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner contends that the claims contain subject matter was not described in the specification in such a way as to reasonably convey to one skilled in the art that the applicant had possession of the claimed invention at the time the application was filed. The Examiner contends that only the 9C9, 7B2 and RC1 monoclonal antibodies meet the written description requirement. Although applicant disagrees with the Examiner, applicant has amended the claims so as to claim the 9C9 monoclonal antibody or binding fragments thereof. Reconsideration is thus respectfully requested.

The Examiner rejected claims 1-21, 23 and 28-30 under 35 U.S.C. §112, first paragraph, on grounds that the claims contain subject matter which was not described in the specification in such a away as to enable one skilled in the art to which it pertains to make and/or use the invention. The Examiner contends that only the 9C9 monoclonal antibody is enabled. Although applicant disagrees, applicant notes that the claims have been amended so as to claim only the 9C9 monoclonal antibody or binding fragments thereof.

The Examiner states that the specification lacks sufficient deposit information for the monoclonal antibody 9C9. The Examiner reasons that since this monoclonal antibody is unknown, and therefore publicly not available and cannot be reproducibly isolated from nature without undue experimentation, a suitable deposit for patent

purposes is required. In response, applicant, by and through the undersigned counsel of record, hereby makes the following Declaration:

**DECLARATION UNDER 37 C.F.R. §1.808**

Applicant, by and through the undersigned counsel of record, hereby declares that a deposit of the hybridoma cell line from which monoclonal antibody 9C9 can be produced has been made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Applicant notes that the identifying information required by 37 C.F.R. §1.809(d) is presently in the specification (see paragraphs [0097] and [0099] of U.S. Pub. Pat. App. No. US2008/0286197 A1). In view of the amendments made to the claims and for the reasons set forth above, applicant requests reconsideration of the rejections under 35 U.S.C. §112, first paragraph.

The Examiner rejected claims 1-14, 16-18 and 28 under 35 U.S.C. §102(b) as being anticipated by Rouleau et al., WO 00/26675. And, the Examiner rejected claims 1, 5-16 and 18-21 under 35 U.S.C. §102(e) as being anticipated by Cashman et al., WO 05/19828, as evidenced by Wall et al. (*J Neuropsychiatry Clin Neurosci.* 2005;

17(4):489-495). Applicant notes that claim 23, which was directed to the monoclonal antibody termed 9C9, was not rejected under any prior art of record. Inasmuch as new claim 36 and all other claims in the application are drawn to this monoclonal antibody, the prior rejections under 35 U.S.C. §102 are believed to be moot.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. SCH-16772.

Respectfully submitted,

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